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OGC 73-0633

12 April 1973

MEMORANDUM FOR: Executive Secretary, CIA Management Committee

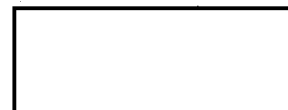
SUBJECT: Agency Compliance With Section 505,
Public Law 92-156 (The Symington
Amendment)

REFERENCE: Memo to IG fr C/Audit Staff, dtd 5 Apr 73,
Same Subject

1. Your routing slip attached to referent raises the question that GAO might wonder about whether paragraph 5 exemptions are broader than "normal and usual expenses of the embassy.... in peacetime."

2. Perhaps it would be helpful to indicate a few aspects of the ceiling of \$350 million placed on expenditures for Laos. First of all, the word "expenditures" in the statute is known by all concerned not to be literally interpreted. DoD representatives made it clear to the congressional committees concerned when the ceiling was proposed that they simply were unable to provide information on the basis of a literal interpretation of "expenditures in Laos." The committee staff people as well as the leadership agreed that accounting for expenditures would be done on the basis of estimates of what was actually used or made available in Laos. As far as we can determine, AID as well as DoD, and to some degree the Agency, do not have accounting systems which would enable a dollar for dollar accounting for expenditures in and for Laos. Even with the understood interpretation of expenditures, new systems of accounting and estimating were required to be adopted by the agencies concerned.

OGC Has Reviewed



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MORI/CDF Pages 1-7

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3. In the development of the dollar limitation, program estimates were secured from the agencies concerned. There was full understanding, Symington included, that U.S. embassy costs and Agency station costs for non-assistance-related activities, i.e., intelligence collection and management support costs, would not be considered within the scope of the Symington Amendment. Furthermore, Symington requested and was furnished the embassy and Agency station costs which were to be excluded in reporting under the Symington Amendment. As far as can be determined, Agency reporting has been consistent with those program estimates for assistance-related activities.

4. The language of the Symington Amendment as it appears in the statute is very rigid and clearly would require inclusion of normal embassy costs as well as all Agency station costs. This rigid language was the basis for DoD and the Agency seeking and securing the statement of the conferees in the Conference Report.

25X1 [] memorandum includes some of the Conference language, but it is repeated here (including that which was deleted in his memorandum).


The conferees intend that the \$350 million limitation should include all assistance-related activities in Laos. However, the conferees wish to make it understood that it is not the intent to place a ceiling on, or reduce, funds available for vital non-assistance-related activities in programs which must be carried on irrespective of assistance-related operations in Laos, such as the normal expenses incurred by the State Department in the operation of its embassy and such normal and usual expenses of the embassy as would be incurred in peacetime in the absence of any military, paramilitary, or economic assistance programs of any kind. (Emphasis added.)

It can be argued that the words "such as" are nonexclusive of the examples which immediately follow. In other words, there may be other vital non-assistance-related activities which would not be included in the ceiling.

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5. It is always possible that an outside agency such as GAO reviewing the situation today could argue that certain expenditures excluded from reporting should have been included in the reporting under the ceiling. On the other hand, it is believed that the discussion by Agency representatives with the committee staffs, and our understanding of what Senator Symington agreed to with those staff representatives, plus our cable traffic to the field furnishing guidelines on reporting, are consistent with the spirit and intent of the Symington Amendment and the wording of the Conference Report. We believe that if GAO raises general questions about the type of expenditures which we have excluded from the over-all amount reported under the Laos ceiling, we could present a strong case in defense of our position.

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Deputy General Counsel

Att-Ref

cc: DDM&S

C/FE

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IG

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TAB

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Executive Registry
73-1756

5 APR 1973

MEMORANDUM FOR: The Inspector General

SUBJECT : Agency Compliance With Section 505,
Public Law 92-156 (The Symington
Amendment)

1. This memorandum is for your information only. It explains the Agency's response to the ceiling imposed by the Symington Amendment as noted in the report of audit of Udorn Base, 31 January 1973.

2. The subject Public Law imposed a limitation of \$350,000,000 for the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, equipment, services, personnel, or advisors in, to, for, or on behalf of Laos during the fiscal year ended June 30, 1972. The distribution of this limitation on the basis of budgetary estimates, and the amounts actually reported at June 30, 1972 by each contributing Agency were as follows:

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Estimated

Reported

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4. The Audit Staff has completed a review of the amounts reported by the Agency in compliance with the subject Public Law. We found that these amounts were based on valid obligations of funds and actual issues of commodities and supplies at June 30, 1972, the date the report was due. Adjustments which might have been made in reported costs had the report been submitted when firmer data became available would have tended to reduce rather than to increase amounts reported. Our review included verification of expenditures and issues on behalf of DOD, but excluded verification of expenditures on behalf of the Agency by AID. These should be examined by the General Accounting Office during their review of AID programs in Laos.

5. We also examined the rationale and authority for omission of certain expenditures from the report. These included expenditures for intelligence collection and covert action operations targeted against Laos and third countries which were determined by Headquarters not to be in support of the Laotian paramilitary program, and all headquarters and field incurred management support costs of [redacted] and subordinate units in Laos. The omission of these costs, which included salaries and other costs of supporting personnel and advisors directly involved in the paramilitary program, was based on the understanding by the Office of Legislative Counsel of the intent of Congress. This is stated in part in the Joint Explanatory Statement of the Committee of Conference (Conference Report 92-618) as follows:

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The conferees intend that the \$350 million limitation should include all assistance-related activities in Laos. However, the conferees wish to make it understood that it is not the intent to place a ceiling on, or reduce funds available for...normal and usual expenses of the embassy as would be incurred in peacetime in the absence of any military, paramilitary, or economic assistance programs of any kind.

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The position that such costs were not intended to be included in the limitation is reinforced by the fact that they were not included in the program estimates used as a basis for the limitation.



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Chief, Audit Staff

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SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
		SECRET	
CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	Gen Counsel	12 Apr '73	JSW/5
2	Legis Counsel	4/11/73	
3	C/FE	4/11/73	
4	DDM+S		
5			
6			
	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
Remarks: I understand that the GAO <u>might</u> wonder about whether para 5 exemptions are broader than "normal + usual expenses of the embassy in peacetime" — Comment? —			
FOLD HERE TO RETURN TO SENDER			
FROM:		DATE	
ES/mc/		6 APR 1973	
UNCL		SECRET	

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